

**QWEST ANALOG PRIVATE LINE SERVICE AGREEMENT**  
**Intrastate**

97897

This is an agreement between **City of Phoenix** ("Customer") and **Qwest Corporation** ("Qwest") for the provision of Qwest Analog Private Line Service ("Service") as defined herein ("Agreement"). Throughout this Agreement, Customer and Qwest may individually be referred to as "Party" and/or collectively as "Parties".

**1. SCOPE.**

1.1. Under this Agreement, Qwest shall furnish and Customer shall pay for Service as defined herein. Qwest shall provide Service up to the Standard Network Interface ("SNI") at Customer's premises. The SNI is that location where Qwest's protected network facilities end and Customer's inside wire or network begins. Qwest provides Service in accordance with the applicable Tariff, Price List, Price Schedule, Administrative Guideline, and/or Catalog ("Tariff") which governs Service in the state where Service is provided, incorporated herein by this reference. Where any term or condition of this Agreement conflicts with the Tariff, the then current Tariff shall prevail.

1.2. Qwest shall provide and Customer shall pay for Qwest Analog Private Line Transport Service which is a dedicated, point-to-point or multi-point, intrastate, intraLATA private line voice grade telecommunications service providing analog transmission capabilities as defined herein and in the Tariff..

1.3. Federal Communications Commission ("F.C.C.") regulations only permit interstate usage of Service if such usage does not exceed 10% of the total usage. It is Customer's responsibility to ensure that Customer uses Service as an intrastate, intraLATA telecommunications service consistent with F.C.C. regulations. If Customer should use this Service for any other purpose, or if interstate usage exceeds 10%, it is Customer's responsibility to immediately notify Qwest of such use and to place an order for appropriate service. Qwest shall bill, and Customer shall promptly pay, appropriate monthly recurring charges, for such use of and changes to Customer's telecommunications service, including but not limited to all applicable Qwest Access Tariff F.C.C. No. 1 Interstate access charges or Intrastate Tariff access charges.

**2. TERM.**

2.1. This Agreement is effective on the latest signature date and expires sixty (60) months from July 1, 2001, or the date Service is available to Customer under this Agreement, as evidenced by Qwest records, if later than July 1, 2001 ("Term").

2.2. If Qwest continues to provide Service after this Term without a further Agreement, the provisions for month-to-month service in the Tariff will apply.

**3. BILLING LEVEL AND ADJUSTMENTS TO BILLING LEVEL.**

3.1. Customer may add or remove Service within a range of 80% to 120% of the Threshold Billing Level. The Minimum Revenue Base shall be 80% of the Threshold Billing Level as defined in Section 3.2. Qwest and Customer shall perform and cooperate in completing audits of Service so that appropriate charges may be assessed and paid.

3.2. The monthly rate for Service initially provided under this Agreement (initial "Threshold Billing Level") is \$179,868.20. In addition, Customer shall also pay any Tariff nonrecurring charges or other charges applicable to Service but not included in this Agreement.

3.3. Except as otherwise provided herein, in any month where Customer receives Service generating monthly charges greater than 120% of the Threshold Billing Level, Customer's adjusted Threshold Billing Level shall increase to 90% of the new monthly charges.

3.4. If Customer discontinues a portion of Service and the resulting monthly charges drop below the Minimum Revenue Base, Customer shall incur a one-time termination charge for the reduction in Service, as described in Section 7 below. When Service is discontinued and termination charges are incurred, the Minimum Revenue Base shall be decreased by an amount equal to the portion of Service terminated for the duration of the Agreement, or until additional termination charges are incurred.

**4. CHARGES AND BILLING.** During the initial term of this Agreement, the monthly charges for Service will not exceed those expressed below unless required by regulatory authority. Any price increases directed or mandated by an authorized regulatory agency shall increase charges for Service under this Agreement. Customer shall pay Qwest all applicable taxes, usual and customary surcharges, and all government imposed fees and charges that relate to the Service or installation rendered hereunder. Customer shall pay each bill in full by the payment due date on each bill. Where permitted by law, late payment charges shall be assessed according to Tariff or law. The prices for Services under this Agreement, including any and all discounts to which Customer may be entitled, will be offered and charged to Customer independently from and regardless of the Customer's purchase of any customer premises equipment or enhanced services from Qwest. Specifics regarding Service provided under this Agreement are set forth in Attachment 1, incorporated herein by reference.

**5. CHANGES TO SERVICE.**

5.1. Customer may request Qwest to move or add to Service ("Change") if Qwest commercially offers such Change to Service, and Customer agrees to pay all applicable charges related to such Change. Qwest records shall document such Change.

5.2. If Qwest changes the rate structures under which Service is provided, Qwest may change this Agreement's rate structures and associated rates as shown herein, as long as Customer's current overall billing for Service provided under this Agreement is not increased as the result of such change.

**6. INTERRUPTIONS TO SERVICE.** Tariff specifies the credit allowance due Customer, if any, for interruptions to Service which are not caused by Customer's negligence. In the event Service is provided where there is no Tariff, the provisions of the F.C.C. Access Tariff No. 1 shall apply with respect to credit allowance due Customer.

**7. NONAPPROPRIATION.** Qwest recognizes that the continuation of this Agreement after the close of the Customer's fiscal year, which ends on June 30 each year, shall be subject to the approval of the budget of Customer providing an appropriation covering this item as an expenditure therein. Customer does not represent that said budget item will be actually adopted, as such determination is that of the Phoenix City Council at the time of the adoption of the budget. Customer represents that it intends to pay all monies due under this Agreement if such funds have been legally appropriated. Customer agrees to actively request funding for future fiscal periods in order to satisfy the terms of this Agreement. In the event that Customer is allotted insufficient funds for the remainder of the then current fiscal period or for a succeeding fiscal period by appropriation, appropriation limitation or grant to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose, this Agreement shall automatically terminate without penalty on the last day of the fiscal period for which funds were legally available. Customer shall give Qwest prompt written notice of termination because of nonappropriation. Upon termination, Customer shall, to the extent of lawfully available funds, pay all amounts payable through the end of the then current fiscal period, all Qwest's costs reasonably incurred through the date of notice of termination and attributable to such termination.

**8. TERMINATION.**

8.1. Either Party may terminate this Agreement for cause provided written notice specifying the cause for termination and requesting correction within thirty (30) days is given the other Party and such cause is not corrected within such thirty (30) day period. Cause is any material breach of the terms of this Agreement. If Qwest terminates this Agreement for cause, or if Customer terminates this Agreement

WITHOUT cause, Customer shall pay discontinuance charges. If termination is prior to installation of Service, discontinuance charges shall be those reasonable costs incurred by Qwest through the date of termination.

8.2. If Customer terminates this Agreement after installation, in whole or in part, Customer shall pay termination charges calculated as follows: Monthly Rates for Service terminated below 80% of the Threshold Billing Level, multiplied times 40%, multiplied times the number of months remaining in this Agreement, plus all due but unpaid recurring and all unpaid nonrecurring charges.

8.3. A termination charge will be waived when all of the following conditions are met: 1) the Customer discontinues their contracted service(s) and signs a new service agreement(s) for any other Qwest-provided service(s), 2) the new service agreement(s) have a total value equal to or greater than 115% of the remaining prorated value of the existing agreement(s) (excluding any special construction charges, applicable nonrecurring charges, or previously billed but unpaid recurring and/or nonrecurring charges), 3) the Customer places the orders to discontinue the service and establish new service at the same time, and 4) a new minimum service period goes into effect when the new service agreement term begins. New service is defined as newly installed service placed under new service agreement(s), or newly installed additions to existing service agreement(s), but does not include renewals of expiring service agreement(s), renegotiations of existing service agreement(s), or conversions from month-to-month service to contracted service. The waiver does not apply to changes between regulated or enhanced services, and unregulated products and services.

9. **LIMITATION OF LIABILITY.** Neither party will be liable to the other party for any incidental, indirect or consequential damages of any kind, including, but not limited to, any loss of use, loss of business or loss of profit except as provided in this Agreement. Any Qwest liability to Customer for any damages of any kind under this Agreement will not exceed, in amount, a sum equivalent to the applicable out of service credit. The limitations of liability stated above shall not apply to Qwest's or Customer's liability for physical damage to property, bodily injury to persons, including death, and damages for infringement of intellectual property rights.

10. **NO WARRANTIES.** THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11. **UNCONTROLLABLE CIRCUMSTANCES.** Neither Party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative, judicial, executive or administrative authorities; or any other circumstances which are not within its reasonable control.

12. **LAWFULNESS.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Service is provided.

13. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the Parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

14. **SUCCESSORS, ASSIGNMENT.** This Agreement binds the parties, their successors, and their assigns. Either party may assign its rights and delegate its duties under this Agreement with the express,

written permission of the other party, which permission shall not be unreasonably withheld; provided, however, that Qwest may assign its rights and delegate its duties under this Agreement to its parent, a subsidiary, or an affiliate without prior, written permission. In no event may Customer assign its rights nor delegate its duties under this Agreement to a competitor of Qwest.

**15. GENERAL PROVISIONS.**

15.1. Failure or delay by either Party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.

15.2. This Agreement benefits Customer and Qwest. There are no third party beneficiaries.

15.3. If a Party returns this Agreement by facsimile machine, the signing Party intends the copy of this authorized signature printed by the receiving facsimile machine to be its original signature.

15.4. This Agreement constitutes the entire understanding between Customer and Qwest with respect to Service provided herein and supersedes any prior agreements or understandings.

15.5. Notwithstanding anything to the contrary, Customer may not make any disclosure to any other person or any public announcement regarding this Agreement or any relation between Customer and Qwest, without Qwest's prior written consent, except as required by law. Qwest shall have the right to terminate this Agreement and any other agreements between the parties if Customer violates this provision.

**16. INTELLECTUAL PROPERTY INDEMNIFICATION.**

16.1 Qwest agrees to defend, at its own expense, and to indemnify and hold harmless Customer and its officers, agents and employees from and against all judgments, claims, damages, suits, liabilities, settlements, costs, and demands, including reasonable attorney's fees, suffered or incurred by Customer as a result of any claim that any equipment, software, products or services (hereinafter "Deliverables") provided within the scope of this Agreement infringe any U.S. copyrights, trade secrets or other intellectual property rights of third parties, provided that Qwest is notified in writing within five (5) business days of such claim. Qwest shall have the sole right to control the defense of all such claims, lawsuits, and other proceedings including the right to settle the same. In no event shall Customer settle any such claim, lawsuit or proceeding without Qwest's prior express written approval. Customer shall cooperate with Qwest in a reasonable way to facilitate the settlement or defense of such claim. If as a result of any claim of infringement, Qwest or Customer is enjoined from using the Deliverables provided under this Agreement, or if Qwest reasonably believes that the products are likely to become the subject of a claim of infringement, Qwest may, at Qwest's option and expense, (1) procure the right for Customer to continue to use the Deliverables, or (2) replace or modify the Deliverables so as to make them non-infringing and capable of serving the purpose for which the deliverable was provided. The foregoing states the entire liability of Qwest with respect to infringement of any intellectual property rights by the Deliverables or any parts thereof. Qwest's obligations under this Section shall survive the termination of this Agreement for any reason.

16.2 Qwest shall have no such duty to indemnify Customer, if Customer: (1) uses the Deliverables in a manner not intended or contemplated by this Agreement and/or (2) combines the Deliverables with a third party product not previously approved by Qwest in writing and thereby infringes a third party's copyright, trade secret or other intellectual property right.

**17. SUPPLEMENT TO AGREEMENT.** The parties may, by mutual agreement and execution of a written Supplement to this Agreement, modify or add to the provisions of this Agreement.

**18. DRAFTING OF AGREEMENT, A CONVENIENCE.** As a matter of convenience, one party to this Agreement has taken on the bulk of the task of drafting this Agreement. This Agreement shall not be construed against the drafting party merely because of its role in drafting this Agreement.

**19. INDEPENDENT CONTRACTOR STATUS.** This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind between the parties, and the rights and the obligations of the parties shall be only those expressly set forth in this Agreement. The parties agree that no person supplied by Qwest in the performance of Qwest's obligations under this Agreement are Customer employees, and that no rights of Customer civil service, retirement or personnel rules accrue to such persons. Qwest shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workman's compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such persons used by it in the performance of this Agreement. Qwest shall save and hold the Customer harmless with respect thereto.

**20. CANCELLATION.** Qwest understands and acknowledges that this Agreement is subject to cancellation by the Customer pursuant to the provisions of A.R.S. 38-511.

**21. IMMIGRATION REFORM AND CONTROL ACT.** Qwest understands and agrees that it is obligated to comply with the Immigration Reform and Control Act of 1986.

**22. NONDISCRIMINATION.**

22.1. Qwest shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age, or disability nor otherwise commit an unfair employment practice. Qwest will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment without regard to their race, color, religion, gender or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, promotion, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

22.2. Qwest further agrees that this clause will be incorporated in all subcontracts entered into with suppliers of materials or services, and all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. This clause shall also be incorporated into all job-consultant agreements or subleases in any way pertaining to Qwest's performance under this Agreement.

22.3. Qwest's attention is directed to the requirements and provisions of City of Phoenix Ordinance G-3472 (same being subsection 18-19, et seq., Code of the City of Phoenix, adopted November 20, 1991).

2.3

**EXECUTION.** The Parties hereby execute and authorize this Agreement as of the latest date shown below. Notices concerning this Agreement may be sent to Qwest's Customer billing address of record or to Customer's Address for Notices specified herein, if any.

**CITY OF PHOENIX**  
a municipal corporation

FRANK A. FAIRBANKS  
City Manager

Authorized Signature

Danny W. Murphy  
Name Typed or Printed

Information Technology Director  
Title

ATTEST:   
DEPUTY City Clerk

APPROVED AS TO FORM:

Acting City Attorney 

Date

6/28/01

**QWEST CORPORATION**

Authorized Signature

Albert Macaluso  
Name Typed or Printed

Sales Manager - Government  
Title

May 17, 2001  
Date

Director Pricing and Offer Management

Authorized Signature

Richard Fernandez  
Director

Date

06/28/01 10:00 AM  
CITY OF PHOENIX  
RECEIVED

Agreement Number CDS-990607-0052  
City of Phoenix Document Number \_\_\_\_\_

**U S WEST FRAME RELAY SERVICE  
FIXED PERIOD PRICING PLAN  
INTERSTATE**

89295

This is an Agreement between City of Phoenix ("CUSTOMER") and U S WEST Communications, Inc. ("USWC"), for the provision of Frame Relay Service ("FRS" or "Service") as defined herein ("Agreement"). Throughout this Agreement, CUSTOMER or USWC may individually be referred to as "Party" or together as "Parties". This Agreement replaces Agreement Number PHX-940505-0022, also known as City of Phoenix Document Number 68806, in its entirety.

**1. SCOPE.**

1.1. Description. FRS provides interconnection of Local Area Networks (LANs) and/or computers, with maximum transmission speeds of 44.736 Mbps for 4-wire and 128 kbps for 2-wire. FRS enables users to allocate circuit bandwidth to applications as needed up to the maximum bandwidth purchased, rather than assigning fixed channels for specific applications. FRS requires certain CUSTOMER Provided Equipment ("CPE") not provided as part of FRS to accumulate and properly format CUSTOMER data transmission.

1.2. USWC will provide Service in accordance with USWC's Federal Communications Commission ("F.C.C.") Access Tariff No. 5 if Service is Interstate or in accordance with the applicable USWC Tariff, Price List, Price Schedule, Administrative Guideline, and/or Catalog if Service is Intrastate, of which the applicable document(s) is incorporated herein by this reference and shall hereinafter be referred to as "TARIFF". In the event of a conflict between the terms and conditions of this Agreement and the TARIFF, the TARIFF will prevail.

2. **TERM.** This Agreement is effective on the latest signature date and expires thirty-six (36) months from the date Service is available to CUSTOMER, as evidenced by USWC records. If USWC continues to provide FRS after this term without a further Agreement, the provisions for month to-month service in the TARIFF will apply.

3. **INSTALLATION/LOCATION(S).** USWC's records will document the actual date of installation at the following CUSTOMER address location(s):

Access Speed	# PVCs	Address	Monthly Charge	Non-recurring Charge
1.544 Mbps	12	Central Phoenix Library 1221 N Central Ave.	\$ 599.11	N/A
56 Kbps	1	Acacia Public Library 750 E Townley Ave.	\$ 79.83	N/A
56 Kbps	1	Cholla Public Library 10050 Metro Parkway E	\$ 79.83	N/A
56 Kbps	1	Harmon Public Library 411 W Yavapai St.	\$ 79.83	N/A
56 Kbps	1	Ironwood Public Library 4333 E Chandler Blvd.	\$ 79.83	N/A
56 Kbps	1	Juniper Public Library 825 W Union Hills Dr.	\$ 79.83	N/A
56 Kbps	1	Mesquite Public Library 4525 Paradise Village Pkwy. N	\$ 79.83	N/A
56 Kbps	1	Palo Verde Public Library 4402 N 51 <sup>st</sup> Ave.	\$ 79.83	N/A

Attachment 7

56 Kbps	1	Saguara Public Library 2808 N 46 <sup>th</sup> St.	\$ 79.83	N/A
56 Kbps	1	Yucca Public Library 5648 N 15 <sup>th</sup> Ave.	\$ 79.83	N/A
56 Kbps	1	Century Public Library 1750 E Highland Ave.	\$ 79.83	N/A
56 Kbps	1	Desert Sage Public Library 7602 W Encanto Blvd.	\$ 79.83	\$ 500.00
56 Kbps	1	Ocotillo Public Library 102 W Southern Ave.	\$ 79.83	\$ 500.00

#### 4. CHARGES AND BILLING.

4.1. Any price increases directed or mandated by an authorized regulatory agency shall increase charges for Service under this Agreement. Any Service Elements installed during the first twenty-four months of a multi-year, fixed period Pricing Plan, or installed at anytime during a one year fixed Pricing Plan, ("Phased-In Installation"), shall be those charges in effect on the date the first Service Element is installed, as evidenced by USWC records. Monthly charges for addition(s) to Service beyond the Phased-In Installation period will be those in effect at the time of the addition(s). Applicable taxes will be added to the charges. CUSTOMER shall pay each bill in full by the payment due date on each bill. Where permitted by law, late payment charges shall be assessed according to TARIFF or law. The prices for Services under this Agreement, including any and all discounts to which CUSTOMER may be entitled, will be offered and charged to CUSTOMER independently from and regardless of the CUSTOMER's purchase of any customer premises equipment or enhanced services from USWC.

4.2. CUSTOMER will pay the following charges for FRS:

Total Monthly Recurring Charge	\$ 1,557.07
Total Nonrecurring Charge	\$ 1,000.00

#### 5. NONAPPROPRIATION.

5.1. The Customer intends to continue this Agreement for its entire term and to satisfy its obligations hereunder. The Customer shall include in its budget request for each fiscal period appropriations sufficient to cover the Customer's obligations under this Agreement for that fiscal period, and will use all reasonable and lawful means to secure the appropriation of money for such fiscal period sufficient to make the payments becoming due in that fiscal period and shall not use nonappropriation as a means of terminating this contract in order to acquire functionally equivalent products or services from a third party. The Customer does not represent that a budget item providing an appropriation to discharge its obligations will be actually adopted, as that determination is for the City Council at the time of the adoption of the budget.

5.2. In the event that the Customer is allotted insufficient funds for the remainder of the then current fiscal period or for a succeeding fiscal period by appropriation, appropriation limitation or grant to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose, this Agreement shall terminate by giving USWC written notice. Upon termination, the Customer shall, to the extent of lawfully available funds, pay all amounts payable through the end of the then current fiscal period, all USWC's costs reasonably incurred through the date of notice of termination and all reasonable and documented costs to USWC attributable to such termination.

#### 6. TERMINATION.

6.1. Either Party may terminate this Agreement for cause. Cause shall mean any material breach which remains uncorrected thirty (30) days after written notice to the other Party. If USWC terminates this



Agreement for cause or if CUSTOMER terminates this Agreement WITHOUT cause, CUSTOMER will pay early termination charges. If termination occurs before the start of Service, the early termination charge will be the reasonable costs incurred by USWC through the date of termination. USWC will not terminate this Agreement without cause.

6.2. The Minimum Billing Level is 100% of the monthly rates for the rate elements being discontinued, except for the User-to-Network Information Transfer ("UNIT") or Network-to-Network Information Transfer ("NNIT") rate elements. The Minimum Billing Level for the UNIT or NNIT is 100% of the monthly rate for a UNIT or NNIT with one PVC, based on the customer's existing Pricing Plan term and the speed of the associated UNIT or NNIT.

6.3. If, during the Minimum Service Period of 6 months, CUSTOMER disconnects all or part of Service to a level that is below the Minimum Billing Level, CUSTOMER shall pay a termination charge of 100% of the Minimum Billing Level for the months remaining in the Minimum Service Period. The termination charge in 5.4 shall also apply.

6.4. After the Minimum Service Period, the CUSTOMER shall pay 25% of the Minimum Billing Level multiplied times the remaining months in the term of the Agreement. In addition CUSTOMER shall pay the balance of all billed but unpaid recurring and all outstanding nonrecurring charges.

6.5. A termination charge will be waived when the CUSTOMER discontinues Service(s) and ALL of the following conditions are met: 1) CUSTOMER signs a service agreement for any other USWC provided new service(s). All applicable nonrecurring charges will be assessed for the new service(s); 2) Both the current Service and the new service(s) are provided solely by USWC; 3) The order to discontinue Service and the order to establish new service(s) are received by USWC "within thirty (30) calendar days of each other" if service is in New Mexico and "at the same time" if service is in any other state; 4) The new service(s) installation must be completed within thirty (30) calendar days of the disconnection of Service, unless such installation delay is caused by USWC; 5) The total value of the new service agreement(s), excluding any special construction charges, is equal to or greater than one hundred fifteen percent (115%) of the remaining value of this Agreement; 6) A new Minimum Service Period, if applicable, will go into effect when the new service agreement(s) term begins; and 7) CUSTOMER agrees to pay any previously billed, but unpaid recurring, and any outstanding nonrecurring charges—these charges cannot be included as part of the new service agreement(s).

6.6. New service is defined as a newly installed service placed under a new service agreement(s), or newly installed additions to an existing service agreement(s), but does not include renewals of expiring service agreement(s), renegotiations of existing service agreement(s) and conversions from month-to-month service to contracted service.

7. **PERSONAL INJURY; PROPERTY DAMAGE.** Each Party will be responsible for any actual, physical damages it directly causes in the course of its performance under this Agreement, limited to damages resulting from personal injuries, including death, or property damage arising from negligent acts or omissions; PROVIDED, HOWEVER, THAT NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT.

8. **LIMITATION OF LIABILITY.** USWC WILL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT. EXCEPT AS PROVIDED IN THIS AGREEMENT, ANY USWC LIABILITY TO CUSTOMER FOR ANY DAMAGES OF ANY KIND UNDER THIS AGREEMENT WILL NOT EXCEED, IN AMOUNT, A SUM EQUIVALENT TO THE APPLICABLE OUT-OF-SERVICE CREDIT. REMEDIES UNDER THIS AGREEMENT ARE EXCLUSIVE AND LIMITED TO THOSE EXPRESSLY DESCRIBED IN THIS AGREEMENT.

9. **NO WARRANTIES.** THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. **UNCONTROLLABLE CONDITIONS.** Neither Party will be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative, judicial, executive or administrative authorities; or any other circumstances which are not within its reasonable control.

11. **DISPUTE RESOLUTION.**

11.1. Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the Parties or between one of the Parties to this Agreement and the employees, agents or affiliated businesses of the other Party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA").

11.2. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

11.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

11.4. If any Party files a judicial or administrative action asserting claims subject to arbitration, and another Party successfully stays such action and/or compels arbitration of such claims, the Party filing the action shall pay the other Party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

12. **LAWFULNESS.** This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Service is provided.

13. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of this Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

14. **SUPPLEMENT TO AGREEMENT.** The parties may, by mutual agreement and execution of a written Supplement to this Agreement, modify or add to the provisions of this Agreement.

15. **DRAFTING OF AGREEMENT, A CONVENIENCE.** As a matter of convenience, one party to this Agreement has taken on the bulk of the task of drafting this Agreement. This Agreement shall not be construed against the drafting party merely because of its role in drafting this Agreement.

16. **INDEPENDENT CONTRACTOR STATUS.** This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind between the parties, and the rights and the obligations of the parties

shall be only those expressly set forth in this Agreement. The parties agree that no person supplied by USWC in the performance of USWC's obligations under this Agreement are Customer employees, and that no rights of Customer civil service, retirement or personnel rules accrue to such persons. USWC shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workman's compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such persons used by it in the performance of this Agreement. USWC shall save and hold the Customer harmless with respect thereto.

**17. CANCELLATION.** USWC understands and acknowledges that this Agreement is subject to cancellation by the Customer pursuant to the provisions of A.R.S. 38-511.

**18. IMMIGRATION REFORM AND CONTROL ACT.** USWC understands and agrees that it is obligated to comply with the Immigration Reform and Control Act of 1986.

**19. NONDISCRIMINATION.** USWC shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age, or disability nor otherwise commit an unfair employment practice. USWC will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment without regard to their race, color, religion, gender or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, promotion, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

USWC further agrees that this clause will be incorporated in all subcontracts entered into with suppliers of materials or services, and all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. This clause shall also be incorporated into all job-consultant agreements or subleases in any way pertaining to USWC's performance under this Agreement.

USWC's attention is directed to the requirements and provisions of City of Phoenix Ordinance G-3472 (same being subsection 18-19, et seq., Code of the City of Phoenix, adopted November 20, 1991).

**20. GENERAL PROVISIONS.**

**20.1.** Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.

**20.2.** This Agreement binds the parties, their successors, and their assigns. Either party may assign its rights and delegate its duties under this Agreement with the express, written permission of the other party, which permission shall not be unreasonably withheld; provided, however, that USWC may assign its rights and delegate its duties under this Agreement to its parent, a subsidiary, or an affiliate without prior, written permission. This is a retail end user contract. It may not be assigned to a reseller or a telecommunications carrier under any circumstances.

**20.3.** This Agreement benefits CUSTOMER and USWC. There are no third party beneficiaries.

**20.4.** If a party returns this Agreement by facsimile machine, the signing party intends the copy of this authorized signature printed by the receiving facsimile machine to be its original signature.

**20.5.** This Agreement constitutes the entire understanding between CUSTOMER and USWC with respect to Service provided herein and supersedes any prior agreements or understandings.

21. **EXECUTION.** The parties hereby execute and authorize this Agreement as of the latest date shown below. Notices concerning this Agreement may be sent to USWC's CUSTOMER billing address of record or to CUSTOMER's Address for Notices specified herein, if any.

**CITY OF PHOENIX**  
a municipal corporation

**U S WEST COMMUNICATIONS, INC.**

FRANK A. FAIRBANKS  
City Manager

Authorized Signature

Danny W. Murphy

Name Typed or Printed

Information Technology Director

Title

ATTEST:

ACTING City Clerk

APPROVED AS TO FORM:

Acting City Attorney

Date

David Deans

Authorized Signature

DAVID H. DEANS

Name Typed or Printed

Sales Manager

Title

Date

6/24/99



Universal Service Administrative Company  
Schools & Libraries Division

**FUNDING COMMITMENT DECISION LETTER**

(Funding Year 4: 07/01/2001 - 06/30/2002)

September 28, 2001

PHOENIX PUBLIC LIBRARY  
ROSS W. MCLACHLAN  
1221 N CENTRAL AVENUE  
PHOENIX, AZ 85004

Re: Form 471 Application Number: 231636  
Funding Year 4: 07/01/2001 - 06/30/2002  
Billed Entity Number: 142893

Thank you for your 2001-2002 E-rate application and for any assistance you provided throughout our review. We have completed review of your Form 471. This letter is to advise you of our decision(s).

**FUNDING COMMITMENT REPORT**

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. We have reviewed each Discount Funding Request on your Form 471 application and have assigned a Funding Request Number (FRN) to each Block 5. The enclosed report includes a list of the FRNs from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

**NEXT STEPS**

Once you have reviewed this letter and have determined that some or all of your requests have been funded, your next step to facilitate receipt of discounts as featured in this letter will be to file an FCC Form 486 with the SLD. The Form 486 notifies the SLD to begin payment to your service provider and provides certified indication that your technology plan(s) has been approved. The Form 486 and instructions can be found on the SLD web site at <[www.sl.universalservice.org](http://www.sl.universalservice.org)> or you can call the SLD Client Service Bureau at 1-888-203-8100 and ask that the form be sent to you. The new Form 486, dated July 2001 in the lower right corner, MUST be used for Funding Year 4 and for any previous funding years once it becomes available. Subsequent submissions of earlier versions of the Form 486 will be returned to you and will not be able to be processed. As you complete Form 486, you should also contact your service provider to verify they have received notice from the SLD of your funding commitments. After the SLD processes your Form 486, we can begin processing invoices from your service provider(s) so they can be reimbursed for discounted services they have provided you.

On December 21, 2000, the Children's Internet Protection Act was signed into law. That law will require schools and libraries that receive Universal Service discounts for certain services to adopt an Internet safety policy incorporating the use of filtering or blocking technology on computers with Internet access as a condition of receiving those discounts. THE LAW DOES NOT, HOWEVER, REQUIRE THIS TO BE IN PLACE FOR FUNDING YEAR 4. RECIPIENTS WILL HAVE TO CERTIFY, HOWEVER, THAT THEY ARE UNDERTAKING SUCH ACTIONS, INCLUDING NECESSARY PROCUREMENT PROCEDURES, TO PUT SUCH TECHNOLOGY PROTECTION MEASURES IN PLACE. For Funding Year 4 (the Funding Year beginning July 1, 2001), Billed Entities filing Form(s) 486 may encounter one or more situations that will affect their filing deadline(s). See the requirements for Funding Year 4 below and the Form 486

Instructions for more information on filing deadlines to ensure that your discounts can be paid retroactively to the Service Start Date. You are advised to keep proof of the date of mailing.

1. If Funding Year 4 services start on or before Sunday, October 28, 2001, and the date of your Funding Commitment Decision Letter is before Sunday, October 28, 2001, your Form 486 must be postmarked on or before October 28, 2001 in order for discounts to be paid retroactively to the Service Start Date. Failure to meet this certification deadline will result in reduced funding.
2. If your services start after October 28, 2001, your Form 486 must be postmarked no later than 120 days after the Service Start Date or 120 days after the date of the Funding Commitment Decision Letter, whichever is later, in order for discounts to be paid retroactively to the Service Start Date. Failure to meet this filing deadline will result in reduced funding.

You may also check the SLD web site at [www.sl.universalservice.org](http://www.sl.universalservice.org) or call the Client Service Bureau at 1-888-203-8100 for more information about how this new law might impact universal service discounts and any needed documentation for Funding Year 4 (July 1, 2001-June 30, 2002).

#### TO APPEAL THESE FUNDING COMMITMENT DECISIONS

If you wish to appeal the Funding Commitment Decision(s) (FCD) indicated in this letter, your appeal must be made in writing and RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) at the SLD address below WITHIN 30 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which FCD Letter you are appealing. Indicate the relevant funding year and the date of the Funding Commitment Decision Letter. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your FCD Letter.
3. Identify the particular Funding Request Number (FRN) that is the subject of your appeal. When explaining your appeal, include the precise language or text from the Funding Commitment Decision Letter that is at the heart of your appeal. By pointing us to the exact words that give rise to your appeal, the SLD will be able to more readily understand and respond appropriately to your appeal. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an original authorized signature on your letter of appeal.

Please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Appeals submitted by fax, phone call, and e-mail CANNOT be processed.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC): FCC, Office of the Secretary, 445-12th Street SW, Room TW-A325, Washington, DC 20554. You should refer to CC Docket Nos. 96-45 and 97-21 on the first page of your appeal to the FCC. Your appeal must be made in writing and RECEIVED BY THE FCC at the FCC address above WITHIN 30 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information regarding filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference area of the SLD web site [www.sl.universalservice.org](http://www.sl.universalservice.org).

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the universal service mechanisms for schools and libraries. FCC Form 471 Applicants who have received funding commitments continue to be subject to audits and other reviews that SLD or the Federal Communications Commission may undertake periodically to assure that funds have been committed and are being used in accordance with all such requirements. If the SLD subsequently determines that its commitment was erroneously issued due to action or inaction, including but not limited to that by SLD, the Applicant, or Service Provider, and that the action or inaction was not in accordance with such requirements, SLD may be required to cancel these funding commitments and seek repayment of any funds disbursed not in accordance

with such requirements. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

We look forward to continuing our work with you on connecting our schools and libraries through advanced telecommunications services.

Sincerely,

Schools and Libraries Division  
Universal Service Administrative Company

Enclosures

## A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each E-rate funding request from your application. We are providing the following definitions.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

**FUNDING STATUS:** Each FRN will have one of three definitions: "Funded," "Not Funded," or "As Yet Unfunded."

1. An FRN that is "Funded" will be approved at the level that SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funds in the Universal Service Fund was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for internal connections at a particular discount level. For example, if your application included requests for discounts on both telecommunications services and internal connections, you might receive a letter with our funding commitment for your telecommunications funding requests and a message that your internal connections requests are "As Yet Unfunded." You would receive a subsequent letter(s) regarding the funding decision on your internal connections requests.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

**EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT:** The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

**CONTRACT EXPIRATION DATE:** The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

**PRE-DISCOUNT AMOUNT:** Amount in Form 471, Block 5, Item 23, Column I, as determined through the application review process.

**DISCOUNT PERCENTAGE APPROVED BY THE SLD:** This is the discount rate that the SLD has approved for this service.

**FUNDING COMMITMENT DECISION:** This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service through June 30, 2002. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.



FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

# FUNDING COMMITMENT REPORT

Form 471 Application Number: 231636  
 Funding Request Number: 690649 Funding Status: Not Funded  
 Services Ordered: Telecommunications Service  
 SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
 Contract Number: T  
 Billing Account Number: 602-262-7036  
 Earliest Possible Effective Date of Discount: 07/01/2001  
 Contract Expiration Date: 06/30/2002  
 Site Identifier: 167895  
 Pre-Discount Amount: \$80,784.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - 470 Not Filed  
 Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690650 Funding Status: Not Funded  
 Services Ordered: Internet Access  
 SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
 Contract Number: T  
 Billing Account Number: 602-262-7036  
 Earliest Possible Effective Date of Discount: 07/01/2001  
 Contract Expiration Date: 06/30/2002  
 Site Identifier: 167895  
 Pre-Discount Amount: \$5,064.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - 470 Not Filed  
 Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690651 Funding Status: Not Funded  
 Services Ordered: Internal Connections  
 SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
 Contract Number: T  
 Billing Account Number: 602-262-7036  
 Earliest Possible Effective Date of Discount: 07/01/2001  
 Contract Expiration Date: 06/30/2002  
 Pre-Discount Amount: \$5,064.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - Srvc/Discnt will NOT be funded  
 Funding Commitment Decision Explanation: Funding cap will not provide for Internal Connections <90% discount to be funded. Please see WWW.SL.UNIVERSALSERVICE.ORG for further details.

Funding Request Number: 690652 Funding Status: Not Funded  
 Services Ordered: Telecommunications Service  
 SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
 Contract Number: T  
 Billing Account Number: 602-262-7036  
 Earliest Possible Effective Date of Discount: 07/01/2001  
 Contract Expiration Date: 06/30/2002  
 Site Identifier: 97161  
 Pre-Discount Amount: \$2,376.00  
 Discount Percentage Approved by the SLD: N/A  
 Funding Commitment Decision: \$0.00 - 470 Not Filed  
 Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

# FUNDING COMMITMENT REPORT

Form 471 Application Number: 231636  
Funding Request Number: 690653 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97106  
Pre-Discount Amount: \$3,168.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690654 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97358  
Pre-Discount Amount: \$8,712.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690655 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 205580  
Pre-Discount Amount: \$3,168.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690656 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 96996  
Pre-Discount Amount: \$4,752.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 231636  
Funding Request Number: 690657 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97348  
Pre-Discount Amount: \$7,920.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690658 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97213  
Pre-Discount Amount: \$5,544.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690669 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97270  
Pre-Discount Amount: \$4,752.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690670 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97328  
Pre-Discount Amount: \$2,376.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 231636  
Funding Request Number: 690671 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97241  
Pre-Discount Amount: \$3,960.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690672 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/01/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97023  
Pre-Discount Amount: \$3,168.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.

Funding Request Number: 690673 Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143005231 Service Provider Name: Qwest Corporation fka US West  
Contract Number: T  
Billing Account Number: 602-262-7036  
Earliest Possible Effective Date of Discount: 07/02/2001  
Contract Expiration Date: 06/30/2002  
Site Identifier: 97089  
Pre-Discount Amount: \$4,752.00  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - 470 Not Filed  
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for each Funding Year.



**City of Phoenix**  
PARKS, RECREATION & LIBRARY DEPARTMENT  
PHOENIX PUBLIC LIBRARY

October 23, 2001

Letter of Appeals  
Schools and Libraries Division  
Box 125-Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

Dear Sir or Madam:

**APPEAL LETTTER**

Re: Phoenix Public Library  
Form 471 Application Number: 231636  
Funding Year 4: 07/01/2001-06/30/2002  
Billed Entity Number: 142893

The Phoenix Public Library is appealing your September 28, 2000 decision in which you denied our SLD-Form 471. The application was denied for the following reasons:

"470 Not Filed and Srvc/Discnt will not be funded. "

Below are the funding request numbers that were denied:

- |                 |                                |
|-----------------|--------------------------------|
| 1) FRN# 690649  | 470 Not Filed                  |
| 2) FRN# 690650  | 470 Not Filed                  |
| 3) FRN# 690651  | Srvc/Discnt will not be funded |
| 4) FRN# 690652  | 470 Not Filed                  |
| 5) FRN# 690653  | 470 Not Filed                  |
| 6) FRN# 690654  | 470 Not Filed                  |
| 7) FRN# 690655  | 470 Not Filed                  |
| 8) FRN# 690656  | 470 Not Filed                  |
| 9) FRN# 690657  | 470 Not Filed                  |
| 10) FRN# 690658 | 470 Not Filed                  |
| 11) FRN# 690669 | 470 Not Filed                  |
| 12) FRN# 690670 | 470 Not Filed                  |
| 13) FRN# 690671 | 470 Not Filed                  |
| 14) FRN# 690672 | 470 Not Filed                  |
| 15) FRN# 690673 | 470 Not Filed                  |

**Funding Commitment Decision for 470 Not Filed denial:**

The explanation for the denial stated "The FRN references services that require a posting of a 470 for each Funding Year.

The Library filed our 470 Funding Application in Year 2. We were informed by the Arizona State Library, Archives and Public Records that the Phoenix Public Library did not have to file a 470 Application for Year 3 nor Year 4 because the City of Phoenix / the Phoenix Public Library is restricted to only do business for phone and data/telecommunications with the entity that has City right-of-way privileges. The entity has not changed and is Qwest (formerly US West). Contracts have not changed, only renewals of existing contracts.

I have attached copies of the Library's 470 Funding Year 2 Application (Attachment 2) along with the Original Analog Contract (Contract #75254, Attachment 7) and Renewal Analog Contract (Contract #97897, Attachment 8) with Qwest. The Original Analog Contract period covered the period from 7/1/96-6/30/01 and the Renewal Analog Contract covers the period from 7/01/01-6/30/06.

**Funding Commitment Decision for Srvc/Discnt will not be funded:**

The explanation for denial stated "Funding cap will not provide for Internal Connections <90% discount to be funded.

The connection is for charges incurred for 56K lines used by the Library Branches and therefore should have been marked as Internet Access instead of Internal Connections. Enclosed is a copy of the Library's T1/56K contract (Contract #89295, Attachment 9).

We have amended our Original Form 471, Year 4 Application (Attachment 4) to correct this error. Additionally, the Library has amended the Block 5 Section of Form 471 to reflect the reduction in Telecommunication Services that the Library is being charged. On 7/01/01 the City of Phoenix reduced the amount the Phoenix Public Library is charged for each phone line from \$66 to \$25.60.

Attached are the following forms:

1. USAC Funding Commitment Decision Letter, Funding Year 4
2. Amended Form 471, Funding Year 4
3. Original Form 471, Funding Year 4
4. Form 470, Funding Year 2
5. Technology Plan, Funding Year 2
6. Technology Plan, Funding Year 1
7. Qwest Renewal Analog Contract
8. Qwest Original Analog Contract
9. Qwest Original T1/56k Contract

If you need any additional information you can contact me at 602-262-7036 or David Michael at 602-262-4733.

Sincerely,

A handwritten signature in cursive script that reads "Ross W. McLachlan".

Ross McLachlan  
Library Services Administrator  
Phoenix Public Library  
1221 N Central Ave  
Phoenix , AZ 85004  
PH# 602-262-7036  
FAX# 602-261-8836  
rmclachl@lib.ci.phoenix.az.us



# PHOENIX PUBLIC LIBRARY

## TECHNOLOGY PLAN

1998

<b>Library:</b>	Phoenix Public Library
<b>Library Director:</b>	Toni Garvey
<b>Street Address:</b>	1221 North Central Avenue
<b>Mailing Address:</b>	Same
<b>City:</b>	Phoenix
<b>County:</b>	Maricopa
<b>Zip Code:</b>	85004
<b>Telephone Number:</b>	602-262-6372
<b>Fax Number:</b>	602-261-8836
<b>E-mail Address:</b>	tgarvey@lib.ci.phoenix.az.us
<b>Number of Registered Borrowers:</b>	581,738
<b>Number of Facilities to be networked:</b>	13

The Phoenix Public Library serves the 1.2 million people of the sixth (6th) largest city in the nation with a Central Library and twelve (12) branches. Phoenix is also the largest land mass city, surpassing Los Angeles earlier this year. The Library has over 1.8 million items and circulates over 6.2 million items each year. Currently the Library is connected to the Internet/World Wide Web via a T-1 line to Arizona State University. The Central Library is connected to four (4) of the Branches with T-1 lines and with 56Kb lines to the remaining eight (8). Public access to the World Wide Web is limited to only six (6) facilities. The following statistics illustrate the current distribution of public PCS with Internet/Web connectivity throughout the library system. All of these PCS have Pentium processors.

<i><b>FACILITY</b></i>	<i><b>PUBLIC PCS</b></i>
Central Library	38
Century Branch	5
Cholla Branch	6
Desert Sage Branch	8
Ocotillo Branch	6
Palo Verde Branch	1
<i><b>Total</b></i>	<i><b>64</b></i>

In addition to the public PCS, there are 134 "dumb" terminals providing public access to the Library's online catalog, thirteen (13) full text subscription databases, and a variety of other information resources.

Attachment 10

Public focus group sessions and surveys were conducted in fiscal year 1996/97 which indicated that between 50 - 65% (depending on part of the city) of Phoenix citizens do not have any access to a PC or to the Internet except at the Library. Citizens have clearly informed the Library that they expect to have Internet/Web access available in every library facility. In addition they expect the Library to provide training on how to use a PC, navigate the Library's catalog and online resources, and teach them to be proficient users of the Web.

To meet this need, the Library has installed 64 public PCS in a little over one (1) year, including 6 PCS provided through a Microsoft Libraries Online grant to reach information "have-nots." Each one of these public workstations, without exception, is in use every hour that the Library is open. Several grants have also enabled the Library to begin an initial training program for the public. However, eight (8) of our facilities are without the proper connectivity to allow World Wide Web access. Their 56Kb telecommunications lines do not have the necessary bandwidth to carry Web traffic. It is imperative that the Library meet this important need of the community in order to satisfy the public's need and demands.

The following is a condensed version of the Library's Technology Plan. The complete plan is attached. There are six goals to the plan. The first addresses the issue of public access to information to meet the needs of the community. The remaining goals address continual maintenance, growth and expansion, training, network security, and an ongoing planning process to constantly evaluate and improve services.

**GOAL:**

**Increase citizen access to electronic information resources in every library facility.**

**ACTIVITIES:**

1. Install T-1 lines to the eight (8) Branches that have 56Kb lines.

Acacia	Mesquite
Harmon	Palo Verde
Ironwood	Saguaro
Juniper	Yucca
2. At each of these facilities upgrade the necessary internal wiring, and furnish and install communications cabinets, patch panels, data jacks, and UPS. New routers, hubs, and DSU are also required. The following will be needed at each of the eight (8) facilities:

Wall Cabinet with fan OR an 84" tall by 19" wide floor mounted data rack (depending on the layout of the facility)
Kentrox 78222 DSU (T-1, 110VAC) - (2)
Cisco 2514 Router with IOS and flash/mem upgrades (8 & 8)

APC SmartUPS 1400 Rackmount w/software  
APC SmartSlot 10BaseT SNMP adapter  
Allied Telesis AT-210T traneivers (2)  
3COM 3c16406 24 port 'Hub 40' with RMON  
24 or 48 port cat 5 patch pannel with cat 5 data outlets (e.g.  
Siemons or AMP)

3. Replace the T-1 Internet/Web connection from the Central Library to Arizona State University with a DS3/ATM link. Once all Library facilities are connected to the Internet/Web, based on current usage, traffic will be so heavy that a larger bandwidth will be necessary to support the Library's electronic environment.  
Install DS3/ATM link with Arizona State University  
Purchase Cisco 4700 Router with DS3 serial port
4. Purchase (with City and grant funds) and install a minimum of 4 public Pentium PC workstations at each of these seven (7) facilities. Minimum PC configuration is as follows:  
166MHz Pentium Processor  
32 MB RAM (memory)  
256KB RAM (cache)  
Sony Vivitron or Trinitron 15" Monitor  
PCI Local-bus graphics accelerator w/2MB RAM  
1.2 GB EIDE Hard Drive  
3.5" 1.44 MB Diskette Drive  
Plextor 8X CD-ROM SCSI Drive w/caddy Adaptec AVA-1522A  
SCSI Adapter  
Multimedia Package: Soundblaster 16PnP Value, Labtec LS-800  
Speakers, Labtec LT-835 Digital Headphones  
Mini Tower (case)  
Microsoft PS2 mouse w/mouse pad  
Microsoft Windows 95 operating system  
MS Office 95/97, Professional Edition application software  
Service program - three (3) years w/1st year on site
5. Continue to conduct public focus groups and surveys to monitor success and improve service. Community Advisory Boards will be formed based on the model used at the Ocotillo Branch Library in the Microsoft Libraries Online! project.
6. Expand the public training facilities with gift/grant funds specifically designated for this purpose. Currently the only training facility is located at the Central Library. Its size limits instruction to eight (8) individuals at one time. Plan are being made to possibly double the size of that facility in fiscal year 1997/98.

7. Provide increased public training classes on the use of the PC and how to access all electronic information resources. Classes utilizing groups of public PC workstations are also being held periodically before the Library opens at the Central Library. This instructional model will be expanded to other facilities. Continue to utilize the evaluation form completed by each participant to improve training classes and to develop new types of training classes. Focus groups composed of training participants will be conducted annually to gauge training success and also plan new/additional training.

The computer/PC has become a key component in almost every facet of American life. Printed resources are and will remain vital resources of information. However, today the pressure for all citizens to become conversant with a PC and have full access to electronic information is vital to our nation's goal of equality and achieving a universally informed populace. As only 20% of the Phoenix households have a PC, libraries and schools are desperately trying to fill that gap. Without aid to the education and public library communities, our citizens will increasingly be without the skills necessary to be full participants in society.

July 31, 1997

Mary Johnson, Deputy Director  
Department of Library, Archives and Public Records  
1700 W. Washington, Room 200  
Phoenix, Arizona 85007

Dear Mary:

Enclosed is Phoenix Public Library's E-Rate Technology Plan as well as our complete Technology Plan. If additional information is required please do not hesitate to call, fax, or e-mail. Thank you for including me in the planning process for this very important event.

Sincerely,

Ross McLachlan  
Technical Services Administrator  
Phoenix Public Library  
1221 North Central Avenue  
Phoenix, Arizona 85004  
602-262-7036 - phone

602-261-8836 - fax  
 rmclachl@lib.ci.phoenix.az.us - e-mail

Arizona Department of Education  
 Student Services

%Free and Reduced Participants as Compared Enrollment  
 Fiscal year 1997

CDT	Sponsor	Free Eligible	Reduced Eligible	Enrollment	%of Free & Reduced
70269	Paradise Valley Unified	3719	1233	23654	21%
70297	Deer Valley Unified	2653	1254	21549	18%
70401	Phoenix Elementary	7288	508	9054	86%
70402	Riverside Elementary	140	23	184	89%
70405	Isaac Elementary	5761	505	7944	79%
70406	Washington Elementary	9005	2710	25771	45%
70407	Wilson Elementary	1369	72	1491	97%
70408	Osborn Elementary	2735	340	4194	73%
70414	Creighton Elementary	5843	551	7817	82%
70421	Murphy Elementary	2445	120	2837	90%
70428	Kyrene Elementary	1020	448	18615	8%
70431	Balsz Elementary	2248	240	2816	88%
70438	Madison Elementary	1421	334	4819	36%
70466	Roosevelt Elementary	10402	779	12081	93%
70468	Alhambra Elementary	8441	1430	11843	83%
70483	Cartwright Elementary	10426	1783	18231	67%
70510	Phoenix Union HS	8427	865	21307	44%

**Total Average % of Free & Reduced = 64.647%**

Federal Communications Commission discounts will be calculated as follows:

%of Students Eligible For

School Lunch Program

Urban Discount

Rural Discount

less than one	20%	25%
1-19	40%	50%
20-34	50%	60%
35-49	60%	70%
50-74	80%	80%
75-100	90%	90%

**Based on these rate, Phoenix Public Library's discount rate is calculated at 80%.**

**TECHNOLOGY PLAN  
1999/2000**

**PHOENIX PUBLIC LIBRARY**

<b>Library</b>	<b>Phoenix Public Library</b>
<b>Library Director:</b>	<b>Toni Garvey</b>
<b>Street Address:</b>	<b>1221 North Central Avenue</b>
<b>Mailing Address:</b>	<b>Same</b>
<b>City:</b>	<b>Phoenix</b>
<b>County:</b>	<b>Maricopa</b>
<b>Zip Code:</b>	<b>85004</b>
<b>Telephone Number:</b>	<b>602-252-6372</b>
<b>Fax Number:</b>	<b>602-261-8836</b>
<b>Contact Person:</b>	<b>Ross McLachlan</b>
<b>E-mail Address</b>	<b>rmclachl@lib.ci.phoenix.az.us</b>
<b>Number of Registered Borrowers:</b>	<b>640,614</b>
<b>Number of Libraries/branches covered by this plan:</b>	<b>13</b>

The Phoenix Public Library serves the 1.3 million people of the sixth (6th) largest city in the nation with thirteen facilities - a Central Library and twelve branches. Phoenix is also the largest land mass city, surpassing Los Angeles in 1997. The Library has approximately 2.0 million items and circulates over 6.5 million items each year. Currently the Library is connected to the Internet/World Wide Web via a T-1 line to Arizona State University. The Central Library is connected to the 12 branches with T-1 lines. Public access to the World Wide Web is planned to be available in all facilities in early 1999. The Library currently has 320 PCs and 200 terminals. The terminals will be replaced by the end of the first quarter of 1999. This will bring the Library's total to over 575 PCs. Of these, over 100 will be used directly by the public for Internet/Web access. The additional 150 public PCs will access the Library's online services, subscription databases, and electronic information resources.

The following is a condensed version of the Library's Technology Plan. The complete plan is attached. There are seven goals to the plan. The first addresses the issue of public access to information to meet the needs of the community. The remaining goals address continual maintenance, growth and expansion, training, network security, and an ongoing planning process

to constantly evaluate and improve services.

## **GOAL AND STRATEGY:**

### **Increase citizen access to electronic information resources in every library facility.**

1. Replace the T-1 Internet/Web connection from the Central Library to Arizona State University with a DS3/ATM link. It is expected that Internet/Web traffic will increase to such an extent that a larger bandwidth will be necessary to support the Library's electronic environment.
  - a. Install DS3/ATM link with Arizona State University.
  - b. Purchase Cisco 4700 Router with DS3 serial port.
2. Allocate additional PCs in Library locations where the number of non-PC-owning households falls below citywide averages.
  - a. Conduct a study documenting PC-owning household in each Phoenix Public Library facility's services area.
  - b. Determine the best ratio of non-PC-owning household to Library PCs accessing the Internet/Web.
  - c. Allocate funds to purchase and install the additional PCs at each Library facility.

Minimum PC configuration is as follows:

300 MHZ Pentium Processor  
64 MB RAM (memory)  
512 KB RAM (cache)  
Sony Vivitron or Trinitron 15" Monitor  
PCI Local-bus graphic accelerator w/4-8 MB RAM  
4.0 GB (minimum) EIDE Hard Drive  
3.5" 1.44 MB Diskette Drive  
Plextor 8XCD-ROM SCSI Drive w/caddy Adaptec AVA-1522A Adapter  
Multimedia Package: Soundblaster 16PnP Value, Labtec LS-800 Speakers, Labtec LT-835 Digital Headphones  
Mini Tower (case)



Microsoft PS2 mouse w/mouse pad  
NT operating system  
MS Office 97, Professional Edition application software  
Service program - three (3) year w/1st year on site

3. Expand the public training facilities with gift/grant funds specifically designated for this purpose. Currently the only training facility is located at the Central Library. The size of this facility limits instruction to 8-10 individuals at one time. During Fiscal Year 1997/98 over 1,000 citizens were trained on various facets of computer use from searching the Library's online catalog to advanced Web searching. That program will be expanded each fiscal year including instruction classes in the Branches.

#### **PROFESSIONAL DEVELOPMENT STRATEGY:**

1. In Fiscal Year 1996/97, basic PC competencies were established for ALL Library employees. A self-paced program was developed with multiple training avenues and a "buddy program" to enable the staff to gain the necessary skills. That program will be complete in late 1998.
2. The Library will develop a basic level Internet/Web competencies for ALL staff in Fiscal Year 1998/99. There will be a two year program for staff to complete the competencies.
3. Basic PC and Internet/Web skills will be required for new Phoenix Public Library hires in most job classifications. Other job classifications will receive on-the-job training to acquire those skills.
4. In 1996, the Library developed a Computer Services Liaison (CSL) program to train staff in each agency in basic PC/software troubleshooting. During Fiscal Year 1998/99, that program will be expanded to provide Enhanced Computer Services Liaisons in each library facility. The Enhanced CSL's will be given in-depth training in basic PC/software maintenance and repair. They will receive a pay differential while performing these duties.

## **EVALUATION:**

1. The Phoenix Public Library is in the process of completing a 5-year long range plan. The Technical Services Division also has a complementary long range plan. All of the above processes are part of these plans. Each plan is reviewed annually. At that time success is declared if a goal and/or objective has been completed. Objectives and action steps are reviewed and revised to facilitate the completion of the goals.
2. These long range plans include evaluation of every service provided to the public. Electronic services will be scrutinized very closely based on citizen need and use. They will be changed to meet the information needs of the public.